

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

Plaintiff,

v.

BALDUINO LEMOS

Defendant.

**AFFIRMATION**

Docket No. 08Cv.11144

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I, Jorge Guttlein, Esq., declare pursuant to 28 USC §1746 under penalty of perjury upon information and belief the following is true and correct to the best of my knowledge:

1. I am counsel for the defendant *Balduino Lemos* (hereinafter the “defendant”) in the above captioned action, and in such capacity I submit this affirmation in further support of our motion.

2. I file this declaration in further support of defendant’s Motion to Dismiss the Complaint for failure to state a claim pursuant to F.R.C.P. 12(B)(6) and in opposition to the plaintiff’s Motion for Summary Judgment pursuant to F.R.C.P. 56.

3. Attached hereto as **Exhibit A** is a true copy of the memorandum of creation of record of lawful permanent residence located in the administrative file of the defendant obtained pursuant to a FOIA/PA request.

4. Attached hereto as **Exhibit B** is a copy of the I-551 (resident alien card) and social security card of the defendant obtained from the defendant’s administrative record pursuant to a FOAI/PA request.

5. Attached hereto as **Exhibit C** is a copy of the naturalization certificate provided by the plaintiff in the instant proceedings.<sup>1</sup>

Dated: October 28, 2009  
New York, New York

/s/ Jorge Guttlein  
Jorge Guttlein, Esq.

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<sup>1</sup>By letter dated March 27, 2001, counsel for the plaintiff advised the defendant that they would commence a civil suit. A copy of this letter is attached hereto as **Exhibit D**. By letter dated April 9, 2001, present counsel for defendant respondent to said letter. A copy of said correspondence is attached hereto as **Exhibit E**. No further correspondence was received until the commencement of the instant action